

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Julien Garcon,	)	
	)	C/A No. 6:11-1411-MBS
Petitioner,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
John R. Owen,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Julien Garcon is an inmate in custody of the Bureau of Prisons who currently is incarcerated at FDC-Miami in Miami, Florida. At the time of the underlying events, Petitioner was housed at FCI-Williamsburg in Salters, South Carolina. Petitioner, proceeding pro se, seeks habeas corpus relief under 28 U.S.C. § 2241, alleging that he was denied due process with respect to a disciplinary proceeding. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling.

On October 6, 2011, Respondent filed a motion to dismiss or, in the alternative, for summary judgment. Also on October 6, 2011, in accordance with Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Petitioner was advised of the dismissal procedures and the possible consequences of failing to respond adequately. Petitioner filed a response in opposition to Respondent's motion on November 9, 2012. On May 31, 2012, the Magistrate Judge issued a Report and Recommendation in which he recommended that Respondent's motion for summary judgment be granted. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole

or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Respondent's motion for summary judgment (ECF No. 27) is **granted**, and the case dismissed, with prejudice.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

June 26, 2012

#### **NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**